

**This order is SIGNED.**

**Dated: September 6, 2018**



**R. KIMBALL MOSIER  
U.S. Bankruptcy Judge**



*rdr*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH**

In re:

MARCY L. MEMMOTT-NORDBERG,

Debtor.

Bankruptcy Number: 18-23869

Chapter 7

Hon. R. Kimball Mosier

**ORDER TO SHOW CAUSE WHY CASE SHOULD NOT BE DISMISSED**

Petitioning Creditor Royce Monson commenced the above-captioned case by filing an involuntary chapter 7 petition against Marcy L. Memmott-Nordberg on May 25, 2018. The Court issued a summons that same day. The Petitioning Creditor filed a Certificate of Service of Process of Involuntary Petition on June 11, 2018, which indicated that the Petitioning Creditor served the summons and a copy of the involuntary petition on Ms. Memmott-Nordberg on June 7, 2018 by certified mail.

Fed. R. Bankr. P. 7004(e) requires that if service is effected via mail, the summons and involuntary petition must be “deposited in the mail within 7 days after the summons is issued.” The seventh day after May 25, 2018 was June 1, 2018. By the time the Petitioning Creditor

mailed the summons and involuntary petition on June 7, the summons had grown stale. As a result, service of that summons and involuntary petition was improper.

If service is not properly effected within 90 days after the involuntary petition is filed, the court must dismiss the involuntary petition or order that service be made within a specified time. Fed. R. Civ. P. 4(m). The ninetieth day after May 25, 2018 was August 23, 2018. Accordingly, the Court hereby **ORDERS:**

1. Petitioning Creditor Royce Monson must appear before this Court, 350 S. Main Street, Salt Lake City, Utah, Courtroom #369 on **October 2, 2018 at 11:00 a.m.** and show cause why this case should not be dismissed for failure to properly serve the summons and involuntary petition in compliance with the Federal Rules of Bankruptcy and Civil Procedure.
2. **Failure to appear at the hearing on October 2, 2018 at 11:00 a.m. will result in dismissal of this case.**

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**DESIGNATION OF PARTIES TO RECEIVE NOTICE**

Service of the foregoing **ORDER TO SHOW CAUSE WHY CASE SHOULD NOT BE DISMISSED** shall be served to the parties and in the manner designated below.

**By Electronic Service:** I certify that the parties of record in this case as identified below, are registered CM/ECF users:

|                   |  |
|-------------------|--|
| Mark S. Middlemas | LundbergECFmail@Lundbergfirm.com,<br>ecfmaildistgroup@lundbergfirm.com |
| U.S. Trustee      | USTPRegion19.SK.ECF@usdoj.gov  |

**By U.S. Mail:** In addition to the parties of record receiving notice through the CM/ECF system, the following parties should be served notice pursuant to Fed. R. Civ. P. 5(b).

Royce Monson  
1818 E Bear Claw Circle  
Draper, UT 84020

Marcy L. Memmott-Nordberg  
3151 Bali Lane  
Alameda, CA 94502